

Application No. 09/761,374
Amendment "D" dated December 7, 2005
Reply to Office Action mailed October 6, 2005

REMARKS

The Office Action, mailed October 6, 2005, considered and rejected claims 1-26 under 35 U.S.C. 103(a) as being unpatentable over Peterson et al. (U.S. Patent Application Publication No. U.S. 2001/0003828) in view of Gupta et al. (U.S. Patent No. 6,704,786).


It will be noted, however, that Peterson was commonly assigned to, or subject to an assignment, to Microsoft Corporation, the assignee of the present invention, at the time of the present invention, as reflected in the assignment recorded on 04/27/98 at Reel 9135, Frame 426. Accordingly, based on the statutes recited in §103(c), Peterson cannot be used in an obviousness rejection under §103(a) for the present case inasmuch as Peterson qualifies as prior art, if at all, under §102(e), having issued after the present application was filed.

In view of the foregoing, and the fact that all of the rejections of record are obviousness rejections that rely at least in part on Peterson, all of the rejections of record should now be found moot and withdrawn, and the application should now be found in condition for allowance.

In the event that the Examiner finds any remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview, the Examiner is requested to contact the undersigned attorney.

Dated this 8 day of December, 2005.

Respectfully submitted,



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